

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/04/2007 - 12/07/2007 Session)

NUMBER AND STYLE

06-6463

Tate v. True
(Kiser)

06-1690

Amirmokri v. Abraham
(Williams)

NATURE OF CASE

ISSUE. Whether Tate's Sixth Admendment right to be present
at trial was violated; other issues.

TITLE VII. Whether letter of reprimand constitutes an
adverse employment action; other issues.

PANEL I
COURTROOM ONE
Courthouse Room 412 (Red Carpet)
9:30 a.m.

TUESDAY, DECEMBER 4, 2007

REVD 11/30/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/04/2007 - 12/07/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

07-8
Golphin v. Branker
(Flanagan)

HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.

06-2301
NLRB v. Fairmont Gen Hosp

LABOR. Whether substantial evidence supports NLRB's finding that employer unlawfully refused Union's request to bargain.

07-1438 (L), 07-1439
NC Right to Life v. Leake
(Boyle)

CONSTITUTIONAL LAW. Whether challenged North Carolina statutes addressing campaign financing are unconstitutional.

PANEL II
COURTROOM TWO
Courthouse Room 201 (Green Carpet)
9:30 a.m.

TUESDAY, DECEMBER 4, 2007

REVD 11/7/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/04/2007 - 12/07/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

05-1860

Middlebrooks v. Leavitt, Sec
(Messitte)

TITLE VII. Whether military exception precludes claim by an applicant to Public Health Service subject to dual-track hiring process.

06-2026

A Helping Hand v. Baltimore County MD
(Blake)

ADA. Associational standing issue in challenge to zoning laws regarding methadone clinics; challenge to rulings on "regarded as" and "disparate impact" theories; evidentiary and jury instruction issues.

07-1406

German v. Fox
(Conrad)

CIVIL LAW. Whether the district court correctly applied Garcetti v. Ceballos, 126 S. Ct. 1951 (2006) to the alleged retaliatory termination of a private sector employee when that termination allegedly occurred pursuant to the direction of a state official.

07-4316

US v. Wesley Jay Grund
(Currie)

SENTENCING. Whether district court applied the guidelines as mandatory; consideration of uncounseled juvenile conviction; other issues.

PANEL III
COURTROOM THREE
Courthouse Room 223 (Tan Carpet)
9:30 a.m.

TUESDAY, DECEMBER 4, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/04/2007 - 12/07/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-6803

Cairns v. Johnson
(Lauck)

HABEAS CORPUS. Exclusion from evidence of witness's
journals; sufficiency of the evidence.

06-1864

Ellenburg v. Spartan Motors
(Floyd)

CIVIL PROCEDURE. Whether this court has jurisdiction to
review remand order; other issues.

06-4288

US v. Dwight E. Whorley
(Hudson)

CRIMINAL LAW & PROCEDURE. Whether 18 U.S.C. Sections 1462
and 1466A, which criminalize certain conduct involving
obscene or sexually explicit material, are
unconstitutionally overbroad or vague; other issues.

07-1046

Laurel Sand & Gravel v. Wilson
(Motz)

CIVIL PROCEDURE. Whether plaintiff's constitutional claims
under Maryland's Dewatering Act are barred by res judicata;
whether the abstention doctrine was properly applied.

PANEL IV
COURTROOM FOUR
Courthouse Room 414-D (Tweed Carpet)
9:30 a.m.

TUESDAY, DECEMBER 4, 2007

UNITED STATES COURT OF APPEALS
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NUMBER AND STYLE

06-7550
Barbe v. McBride
(Keeley)

07-1178 (L), 07-1290
Parts Depot, Inc v. NLRB

NATURE OF CASE

CRIMINAL LAW & PROCEDURE. Whether appellant's Sixth Amendment Right to confrontation was violated; other issues.

LABOR LAW. Numerous challenges to NLRB's procedures, evidentiary rulings and computations regarding back pay issue.

PANEL V
COURTROOM FIVE
Courthouse Room 339
9:30 a.m.

TUESDAY, DECEMBER 4, 2007

REVD 11/19/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/04/2007 - 12/07/2007 Session)

NUMBER AND STYLE

07-4270
US v. Larry Pauley
(Copenhaver)

06-2253
NLRB v. HQM of Bayside LLC

NATURE OF CASE

SENTENCING. Whether sentence resulting from downward
variance is reasonable.

LABOR. Whether substantial evidence supports Board finding
that employer engaged in unfair labor practice.

PANEL I
COURTROOM ONE
Courthouse Room 412 (Red Carpet)
9:30 a.m.

WEDNESDAY, DECEMBER 5, 2007

REVD 10/19/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/04/2007 - 12/07/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-2154

Smith v. Jordan
(Smith)

BANKRUPTCY. Whether the bankruptcy court erred in finding that debtor "refused" to obey order within the meaning of 11 U.S.C. Section 727(a)(6).

07-4106 (L), 07-4332

US v. Robert E. Graham
(Faber)

CRIMINAL LAW & PROCEDURE. Sufficiency of evidence, sentencing issues arising out of embezzlement conviction.

05-1953

Consolidation Coal v. Necessary

BLACK LUNG BENEFITS. Whether Administrative Law Judge erred in evaluating autopsy evidence, whether Judge properly excluded doctor's autopsy report, whether Judge erred in considering evidence from living miner claims.
15 mins. per side

PANEL II
COURTROOM TWO
Courthouse Room 201 (Green Carpet)
9:30 a.m.

WEDNESDAY, DECEMBER 5, 2007

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UNITED STATES COURT OF APPEALS
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NUMBER AND STYLE

07-1145 (L), 07-1146
Barnhill v. Veneman
(Howard)

06-2137
Schweikert v. Bank of America, NA
(Messitte)

06-2307
Kennedy v. Joy Technologies
(Jones)

06-2203 (L), 06-2241
EEOC v. Firestone Fibers
(Conrad)

NATURE OF CASE

FEDERAL CROP INSURANCE ACT. Whether repeal of statutory authority to set peanut quotas breached government's crop insurance contracts; other issues.

CIVIL. Whether district court erred in dismissing Maryland common law wrongful discharge claim as barred by the National Bank Act; other issues.

CIVIL PROCEDURE. Whether the district court impermissibly weighed the evidence in granting summary judgment; whether exclusion of expert opinion and agency findings regarding mine accident was abuse of discretion.

TITLE VII. Whether employer failed to provide a reasonable accommodation for employee's religious conflict with work schedule; other issues.

PANEL III
COURTROOM THREE
Courthouse Room 223 (Tan Carpet)
9:30 a.m.

WEDNESDAY, DECEMBER 5, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
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(12/04/2007 - 12/07/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

07-1250
DIRECTV Inc v. Tolson
(Flanagan)

CONSTITUTIONAL LAW. Whether action is barred by Tax
Injunction Act or principles of comity; whether actionable
Commerce Clause claim is stated; standing issue.

06-2119
Neese v. Johanns
(Wilson)

TOBACCO ENFORCEMENT. Whether the payment equation adopted
by the Secretary violates the statute; whether farmers had
standing to challenge the regulations; class certification
and other issues.

06-2003 (L), 06-2175 06-2176 06-2177
Wangberger v. Janus Capital Group
(Motz)

ERISA. Whether plaintiffs have standing to bring suit based
upon alleged breach of fiduciary duty.

PANEL IV
COURTROOM FOUR
Courthouse Room 414-D (Tweed Carpet)
9:30 a.m.

WEDNESDAY, DECEMBER 5, 2007

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UNITED STATES COURT OF APPEALS
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NUMBER AND STYLE

06-2070
DAG Petroleum v. BP P.L.C., et al
(Cacheris)

06-6696
Moore v. Bennette
(Boyle)

NATURE OF CASE

CIVIL. Whether district court properly granted summary judgment to defendants on plaintiff's claims of racial discrimination and business conspiracy.

CIVIL RIGHTS. Whether district court properly dismissed Section 1983 action for failure to state claim and failure to exhaust administrative remedies.

PANEL V
COURTROOM FIVE
Courthouse Room 339
9:30 a.m.

WEDNESDAY, DECEMBER 5, 2007

REVD 11/30/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
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NUMBER AND STYLE

NATURE OF CASE

07-10

Yarbrough v. Johnson
(Friedman)

HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.

06-2068

J.P. v. Cnty School Bd Han
(Payne)

IDEA. Whether district court failed to accord due weight to hearing officer's determination regarding appropriate education; other issues.

07-1320

J. P. v. Cnty School Bd Han
(Payne)

ATTORNEY FEES. Whether attorney fees award by the district court against county in IDEA case was appropriate.

05-1979 (L), 06-1698 06-1812

Choice Hotels Intl v. SM Property Mgmt
(Titus)

ARBITRATION. Whether district court properly vacated arbitration award; whether attorneys fees and costs should have been awarded.

PANEL I
COURTROOM ONE
Courthouse Room 412 (Red Carpet)
9:30 a.m.

THURSDAY, DECEMBER 6, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/04/2007 - 12/07/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

07-1030 (L), 07-1307
Branigan v. Bateman
(Chasanow)

BANKRUPTCY. Issues relating to the applicability and interpretation of recently enacted Section 1328(f) of the Bankruptcy Code.

03-4389 (L), 03-4406 04-4095 04-4137 04-4164 04-4176 04-4185 04-4205
US v. Johnny Frank Davis
(Currie)

CRIMINAL LAW & PROCEDURE. Whether remand is required to correct Booker sentencing error; whether admission of audio tapes violated Crawford v. Washington; whether prosecutor engaged in improper vouching; other issues.

06-7890
Giarratano v. Johnson
(Jones)

CONSTITUTIONAL LAW. Facial and as-applied constitutional challenges to Virginia's statutory exclusion of prisoners from Freedom of Information Act.

07-1140
Mellon Investor Ser v. Longwood Country
(Beaty)

UNIFORM COMMERCIAL CODE. Whether originator's warranty created by Article 8 of the UCC runs to transfer agents; whether plaintiff's common law remedies are preempted; other issues.

PANEL II
COURTROOM TWO
Courthouse Room 201 (Green Carpet)
9:30 a.m.

THURSDAY, DECEMBER 6, 2007

UNITED STATES COURT OF APPEALS
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NUMBER AND STYLE

NATURE OF CASE

06-2092

Darveau v. Detecon Inc
(Lee)

FAIR LABOR STANDARDS ACT. Whether an action taken by the employer against a former employee can constitute an adverse employment action in violation of anti-retaliation provisions of FLSA; whether employee was exempt from overtime pay requirements.

06-1921

Eckerd Corporation v. John E. Day Assoc
(Davis)

TORT LAW. Whether alleged negligence claims come within the exception recognized under Maryland law to the privity requirement and economic loss doctrine; other issues.

07-1225

Beckner v. American Benefit
(Chambers)

ERISA. Identity of plan administrator; eligibility for benefits; other issues.

PANEL III
COURTROOM THREE
Courthouse Room 223 (Tan Carpet)
9:30 a.m.

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UNITED STATES COURT OF APPEALS
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NUMBER AND STYLE

NATURE OF CASE

06-2158

Mora v. City of Gaithersburg
(Messitte)

CIVIL RIGHTS. Did the defendants violate plaintiff's due process rights in refusing to return his confiscated firearms and ammunition; other issues.

06-2233

Bay Country Consumer v. Fidelity Security
(Blake)

INSURANCE LAW. Whether district court erred in evidentiary rulings in insurance case to determine whether death was a suicide.

06-2187

Budrys v. Keisler

IMMIGRATION. Whether Board of Immigration Appeals abused its discretion in denying motion to reopen and remand.

06-2020 (L), 06-2041

Dunes West v. Essex Insurance Co
(Norton)

INSURANCE. Whether summary judgment in favor of insurer was appropriate in breach of contract and bad faith action; other issues.

PANEL IV
COURTROOM FOUR
Courthouse Room 414-D (Tweed Carpet)
9:30 a.m.

THURSDAY, DECEMBER 6, 2007

UNITED STATES COURT OF APPEALS
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NUMBER AND STYLE

NATURE OF CASE

06-5169

US v. Dwight Jose Mitchell
(Floyd)

CRIMINAL LAW & PROCEDURE. Whether proof that an individual with a common name exists is sufficient to satisfy "means of identification of another person" element of 18 U.S.C. Section 1028A(a)(1).

06-5179

US v. Avlin Stanley Ellis
(Boyle)

CRIMINAL LAW & PROCEDURE. Whether district court abused its discretion in denying motion for continuance.

07-1011

Litman v. Toll Bros Inc
(Ellis)

CONTRACTS. Propriety of summary judgment; interpretation of Virginia contract law.

06-1259

Long John Silvers v. Cole
(Floyd)

ARBITRATION. Whether district court properly construed Section 16(b) of the Fair Labor Standards Act; whether the arbitrator disregarded the law or exceeded the scope of his authority.

PANEL V
COURTROOM FIVE
Courthouse Room 339
9:30 a.m.

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UNITED STATES COURT OF APPEALS
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NUMBER AND STYLE

NATURE OF CASE

06-5016

US v. Donovan L. Wallace
(Maxwell)

CRIMINAL LAW & PROCEDURE. Whether failure to make Fed. R. Crim. P. 29 motion precludes appeal regarding sufficiency of the evidence and the effect of government's failure to raise preclusion issue on appeal; other issues.

06-4986

US v. Sean Black
(Payne)

CRIMINAL LAW & PROCEDURE. Whether police had reasonable, articulable suspicion to justify Terry search of defendant's person.

06-4647 (L), 06-4652

US v. Lanny B. Bodkins
(Conrad)

CRIMINAL LAW & PROCEDURE. Whether evidence was sufficient to sustain Plunkett's convictions, whether government failed to disclose Brady material, and whether government improperly withheld departure motion based on Bodkins' assistance; other issues.

06-4763

US v. Emerson Reyes Go
(Lee)

SENTENCING. Whether district court mistakenly concluded that the presumption of reasonableness afforded guideline sentences precludes a sentence outside the guideline range.

PANEL I
COURTROOM ONE
Courthouse Room 412 (Red Carpet)
8:30 a.m.

FRIDAY, DECEMBER 7, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/04/2007 - 12/07/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-4604

US v. Brian Conner
(Flanagan)

SENTENCING GUIDELINES. Abuse of position of trust, USSG
Section 3B1.3; loss determinations, USSG Section 2B1.1.

07-1454

Duke v. Leake
(Britt)

CONSTITUTIONAL LAW. Whether various provisions of North
Carolina's public funding program for judicial candidates
violate the Constitution; whether plaintiffs have standing
to bring suit.

06-4886

US v. Karim L. Mowatt
(Chasanow)

CRIMINAL LAW & PROCEDURE. Did the district court err in
concluding that exigent circumstances existed to support
the warrantless entry of defendant's home?

06-5021

US v. Louis McDade
(Fox)

CRIMINAL LAW & PROCEDURE. Whether guilty plea was knowing
and intelligent; whether appellant waived right to appeal
competency determination; whether district court abused its
discretion in failing to re-open competency issue.

PANEL II
COURTROOM TWO
Courthouse Room 201 (Green Carpet)
8:30 a.m.

FRIDAY, DECEMBER 7, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/04/2007 - 12/07/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-1430

DIRECTV Inc v. Rawlins
(Voorhees)

DAMAGES. Whether the district court abused its discretion by denying the plaintiff/appellant's request for statutory damages pursuant to 18 U.S.C. Section 2520 (2000).

06-4995

US v. David H. Humphrey
(Maxwell)

SENTENCING GUIDELINES. Upward variance.

06-5109 (L), 06-5143

US v. Caleb J. Carr
(Friedman)

CRIMINAL LAW & PROCEDURE. Various issues arising out of multiple convictions for violations of firearms statute and Hobbs Act.

06-4905

US v. Chenomusa N-Jie
(Stamp)

CRIMINAL LAW & PROCEDURE. Whether district court erred in failing to grant appellant's request for an evidentiary hearing on issue of juror bias; other issues.

PANEL III
COURTROOM THREE
Courthouse Room 223 (Tan Carpet)
8:30 a.m.

FRIDAY, DECEMBER 7, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/04/2007 - 12/07/2007 Session)

NUMBER AND STYLE

07-2 (L), 07-4
Lawrence v. Branker
(Boyle)

06-1439
McCray v. Pee Dee Regional
(Wooten)

NATURE OF CASE

HABEAS CORPUS. Numerous issues arising out of state
capital murder conviction and sentencing.

TITLE VII. Whether plaintiff produced any direct evidence
of discriminatory treatment or demonstrated a prima facie
case of discrimination.

PANEL IV
COURTROOM FOUR
Courthouse Room 414-D (Tweed Carpet)
8:30 a.m.

FRIDAY, DECEMBER 7, 2007

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UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
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NUMBER AND STYLE

NATURE OF CASE

06-4467

US v. Adaobi S. Udeozor
(Messitte)

CRIMINAL LAW & PROCEDURE. Whether district court erred in admitting taped conversation and evidence of absent co-defendant's sex acts with victim in involuntary servitude case; special findings; sentencing issues.

06-5226

US v. Rodney Lee Ramey
(Chambers)

CRIMINAL LAW & PROCEDURE. Whether the district court abused its discretion in revoking supervised release by improperly relying on hearsay testimony.

07-1105

Southard v. Lester
(Fox)

CIVIL. Whether district court erred in ruling the Pennsylvania Rule and the International Regulations for Preventing Collisions at Sea were inapplicable in maritime personal injury case.

06-5128

US v. Ayande Yearwood
(Bennett)

CRIMINAL LAW & PROCEDURE. Sufficiency of the evidence to support conspiracy conviction; double jeopardy; Fed. R. Evid. 404(b) evidence.

PANEL V
COURTROOM FIVE
Courthouse Room 339
8:30 a.m.

FRIDAY, DECEMBER 7, 2007